

§ 327.24

§ 327.24 Actions by claimant.

(a) *Form of claim.* The claim must meet the requirements of this section.

(b) *Presentation.* The claim must be presented in writing to the Office of Chief Counsel, Attn. Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590-0001.

§ 327.25 Contents of a claim.

(a) A valid claim will contain the following:

(1) Identification of the Maritime Administration as the agency whose act or omission gave rise to the claim;

(2) The full name and mailing address of the claimant. If this mailing address is not claimant's residence, the claimant shall also include residence address;

(3) The date, time, and place of the incident giving rise to the claim;

(4) The amount claimed, in a sum certain, supported by independent evidence of property damage or loss, personal injury, or death, as applicable together with supporting medical records and a HIPPA compliant medical waiver for each treating physician or hospital;

(5) A detailed description of the incident giving rise to the claim and the factual basis upon which it is claimed the Maritime Administration is liable for the claim;

(6) A description of any property damage or loss, including the identity of the owner, if other than the claimant, as applicable;

(7) The nature and extent of the injury, as applicable;

(8) The full name, title, if any, and address of any witness to the incident and a brief statement of the witness' knowledge of the incident;

(9) A description of any insurance carried by the claimant or owner of the property and the status of any insurance claim arising from the incident; and

(10) An agreement by the claimant to accept the total amount claimed in full satisfaction and final settlement of the claim, lien or subrogation claim on the claimed amount, or any assignment of the claim.

(b) A claimant or duly authorized agent or legal representative must sign in ink a claim and any amendment to

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that claim. The claim shall include a statement that the information provided is true and correct to the best of the claimant's knowledge, information, and belief. If the person's signature does not include the first name, middle initial, if any, and surname, that information must be included in the claim. A married woman must sign her claim in her given name, *e.g.*, "Mary A. Doe," rather than "Mrs. John Doe."

§ 327.26 Evidence supporting a claim.

(a) The claimant shall present any evidence in the claimant's possession that supports the claim. This evidence shall include, if available, statements of witnesses, accident or casualty reports, photographs and drawings.

(b) Notwithstanding anything in the regulations in this subpart, the claimant shall provide such additional reasonable documents and evidence as requested by the Maritime Administration with respect to the claim. Failure to respond to reasonable requests for additional information and documentation can result in a determination that a valid claim has not been submitted.

§ 327.27 Proof of amount claimed for personal injury.

The following evidence must be presented when appropriate in claims:

(a) Itemized medical, hospital, and burial bills.

(b) A written report by the attending physician including:

(1) The nature and extent of the injury and the treatment;

(2) The necessity and reasonableness of the various medical expenses incurred;

(3) Duration of time injuries prevented or limited employment;

(4) Past, present, and future limitations on employment;

(5) Duration and extent of pain and suffering and of any disability or physical disfigurement;

(6) A current prognosis;

(7) Any anticipated medical expenses;

(8) Any past medical history of the claimant relevant to the particular injury alleged; and

(9) If required by the Maritime Administration, an examination by an independent medical facility or physician to provide independent medical

evidence against which to evaluate the written report of the claimant's physician. The Maritime Administration determines the need for this examination, makes mutually convenient arrangements for such an examination, and bears the costs thereof.

(c) All hospital records or other medical documents from either this injury or any relevant past injury.

(d) If the claimant is employed, a written statement by the claimant's employer certifying the claimant's:

- (1) Age;
- (2) Occupation;
- (3) Hours of employment;
- (4) Hourly rate of pay or weekly salary;
- (5) Time lost from work as a result of the incident; and

(6) Claimant's actual period of employment, full-time or part-time, and any effect of the injury upon such employment to support claims for lost earnings.

(e) If the claimant is self-employed, written statements, or other evidence showing:

- (1) The amount of earnings actually lost; and
- (2) The Federal tax return if filed for the three previous years.

(f) If the claim arises out of injuries to a person providing services to the claimant, statement of the cost necessarily incurred to replace the services to which claimant is entitled under law.

§ 327.28 Proof of amount claimed for loss of, or damage to, property.

The following evidence must be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim for property damage which may result in payment in excess of \$20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

- (1) The date the property was damaged;
- (2) The name and location of the repair facility;
- (3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;

(4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property